

Quarterly Report
OF THE
ATTORNEY GENERAL
OF
ALABAMA



FOR THE PERIOD
FROM APRIL 1, 1975
THROUGH JUNE 30, 1975

WILLIAM J. BAXLEY, Attorney General

VOLUME 159

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WILLIAM J. BAXLEY

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Q U A R T E R L Y R E P O R T

of the

ATTORNEY GENERAL

of

A L A B A M A

For the Period

From April 1, 1975

Through June 30, 1975

**TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS
OF ALABAMA:**

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General from April 1, 1975, through June 30, 1975, is published in compliance with the provisions of Title 55, Section 228 Code of Alabama, 1940.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State, and the judge of probate, in turn, is required to deliver one copy each to the clerk of the circuit court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy district attorney of his county. The section also requires that I send a copy of this report to each district attorney and the chief executive officer of each incorporated municipality in the State.

The office of the Attorney General is anxious to render prompt and efficient service to the State, County, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

WILLIAM J. BAXLEY

Attorney General

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April 16, 1975

Honorable John Starnes
District Attorney
Marshall County Courthouse
Guntersville, Alabama 35967

Health and Health Departments

County board of health has authority to adopt regulations requiring sufficient facilities for waste disposal but regulation is not sufficiently worded to bind utility companies.

Opinion by Assistant Attorney General Kendrick

Dear Mr. Starnes:

Our office received your request for an opinion concerning validity of a regulation concerning waste disposal.

You asked if my office would examine an occupancy law of the Marshall County Health Department which concerns disposal of waste and give our opinion as to its validity and enforceability.

It is my opinion that the county board of health has the authority to make regulations which require sufficient waste disposal facilities for buildings, but the regulation is not sufficiently worded to bind utility companies.

Title 22, Section 8, Code of Alabama 1940, Recompiled 1958, states:

"It shall be the duty of the county boards of health in their respective counties and subject to the supervision and control of the state board of health:

"(1) To supervise the enforcement of the health laws of the state including all ordinances or rules and regulations of municipalities or of county boards of health or of the state board of health; . . . , and to adopt and promulgate, if necessary, rules and regulations for administering the health laws of the state and the rules and regulations of the state board of health, which rules and regulations of the county board of health shall have the force and effect of law and shall be executed and enforced by the same bodies, officials, agents and employees as in the case of health laws."

Title 22, Section 140(14), Code of Alabama, as amended, reads:

"The state board of health and/or county boards of health acting through its duly authorized agents or employees shall require every person, firm or corporation or municipal corporation, or agent thereof owning or occupying property within the state, to install the required plumbing facilities, type and number of sewage collection, treatment and disposal facilities conforming to rules and regulations of the state board of

health and/or county boards of health; require connection to sanitary sewer conforming to rules and regulations of state board of health and/or county boards of health where sanitary sewers are available and are not regulated by the municipal corporation, or to dispose of sewage in such sanitary manner as shall be approved by the state board of health. All required sewage treatment and disposal facilities shall conform in every respect with the specifications, rules and regulations applying to these facilities made, adopted and promulgated by the state board of health and/or county boards of health, and shall be maintained as prescribed by the said rules and regulations.

It is clear from these sections that the county board of health has the authority to make rules and regulations regarding waste disposal.

However, Section D of the Occupancy Law passed by the Marshall County Board of Health making it illegal for utility companies to connect final water and electrical service until a certificate of occupancy is issued by the county health officer is not sufficiently worded to be enforceable on the utility company. I would suggest that in order to make such a requirement binding on utilities, Section A be amended to read as follows:

"No new building, tent, trailer, or other structure shall be occupied and no change in occupancy of a building, tent, trailer, or other structure or portion thereof shall be made, nor shall any utility connect any utility service to any such building, tent, trailer or other structure until after the Health Department official shall have issued a certificate of occupancy therefor."

I trust this is sufficient to answer your inquiry.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

April 30, 1975

Honorable James Record
Chairman

Madison County Commission
Madison County Courthouse
Huntsville, Alabama 35801

Madison County—Jails—Juveniles.

The county may provide meals at its jail and detention home only for inmates and security personnel.

Opinion by Assistant Attorney General Lawley.

Dear Sir:

This letter is in response to your letter of recent date, the pertinent part of which is as follows:

"Madison County owns a Detention Home, as well as a jail, and it has come to our attention that both facilities have, in the past, fed persons who do not work directly in the facilities. For instance, Probation Officers have been fed at the Detention Home, as has the Family Court Judge. On occasions, family members have been included. In the jail, the same thing has happened including feeding of deputies who are not assigned to the jail, and of course, the jail security guards. From time to time, visiting law enforcement personnel and other elected officials having no duties whatever with the jail have been fed, plus employees in various offices such as the Tax Assessor, County Commission, etc.

"It is our understanding from an Examiner of Public Accounts that there is a strong possibility that much of the foregoing is illegal, and we need your opinion on this at the earliest possible time.

"In the interim, we have written the Sheriff and Family Court Judge, who is in charge of the Detention Home operation, requesting that all meals be discontinued for anyone other than prisoners and those legally detained. We have made one exception to this, however. We have informed the officers that those who are on duty in the buildings during mealtimes may be fed, provided they are certified, as a necessary part of their employment and so placed on their employment records."

After carefully reviewing your letter and the statutes governing the authority of the county commission, it is my opinion that the feeding practices at the Madison County jail and detention home which you have terminated were without legal authority and should not be resumed.

This office has ruled on numerous occasions that a county is a political subdivision of the State and has only such powers as is conferred upon it by law. *Alexander v. State*, 274 Ala. 441, 157 2d 204. Title 45, Sections 142-155, Code of Alabama 1940, Recompiled 1958, authorize the county commission to feed the prisoners in the county jail. This article also provides that the State shall pay the county a per capita food allowance not to exceed a certain amount for each prisoner in the county jail. Also, Title 13, Section 351, Code of Alabama 1940, Recompiled 1958, authorizes a county commission to pay for the expenses of maintenance and care of dependent, neglected or delinquent children.

Consideration should be given to the fact that security personnel must be present at the county jail and the county detention home during mealtime. I see no objection to these personnel being fed at

county expense since by the very nature of their employment they cannot leave the premises to purchase a meal.

Therefore it is my opinion that the Madison County Commission has legal authority to feed the inmates and the security personnel on duty during mealtime at the county jail and the county detention home. I know of no legal authority by which the county governing body may feed any other county officials or employees at these institutions.

If this office can be of any further assistance in this matter, please let us know.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

May 1, 1975

Mr. Fred D. Ramsey, Superintendent
Marengo County Board of Education
Box 398
Linden, Alabama 36748

Authority of the Alabama Water Improvement Commission and the Alabama Department of Public Health to require acceptable sewage disposal systems for school buildings. Legal recourse of county board of education aggrieved by such requirement.

Opinion by Assistant Attorney General Henry H. Caddell

Dear Mr. Ramsey:

This is in reply to your request for an official opinion of the Attorney General upon the following questions:

- “(1) How much authority does the State Water Improvement Commission have? Does it have the authority to prevent the Marengo County Board of Education from replacing an old dilapidated, fire-hazardous, elementary school building with state bond funds unless this Board agrees beforehand to put in an acceptable (their standards) sewage disposal system, also?
- (2) If the S.W.I.C. does have this kind of authority, then what legal recourse does the Marengo County Board of Education have in disagreeing with the S.W.I.C. decision?
- (3) If it can be carried to a Court of Law, then whose court and where will it be tried?
- (4) How much authority does the State Board of Health have? Does it have the authority to prevent the Marengo County Board of Education from replacing an old, dilapidated, fire hazardous, elementary school building with state bond funds, unless this

board agrees beforehand to put in an acceptable (their standards) sewage disposal system, also?

(5) If the State Board of Health does have this kind of authority, then what kind of legal recourse does the Marengo County Board of Education have in disagreeing with the State Board of Health decision?

(6) If it can be carried to a court of law, then whose court and where will it be tried?

Question One

Here you have inquired as to whether the Alabama Water Improvement Commission has the authority to require the Marengo County Board of Education to install acceptable sewage treatment facilities in connection with a new elementary school building. This question must be answered in the affirmative. Under Act No. 1260, Regular Session, 1971, the Water Improvement Commission has both the authority and the duty to require acceptable sewage treatment as a condition for the operation of any facility which will result in the discharge of sewage, industrial waste, or other pollution into the waters of Alabama. Specifically, Section 4(j) (6) of this Act requires that "every person who, subsequent to the effective date of this Act, wishes to begin discharging any new or increased pollution into any waters of this state shall apply to the Commission in writing for a permit and must obtain such permit before discharging such pollution."

The Marengo County Board of Education falls within the definition of "person" as set out in Act No. 1260. According to that Act, "person" means any and all persons, natural or artificial, including any individual, firm or association or any municipal, public or private corporation organized or existing under the laws of this or any other state or county. See Section 2 of the Act.

Section 4, Act No. 1260, provides that the Commission may promulgate rules and regulations and water quality criteria necessary to carry out the purpose of the Act as well as establish permit limitations based upon these regulations and criteria. Section V of these criteria requires all discharges receive a minimum of secondary treatment. The term "secondary treatment" when used in the context of biodegradable wastes is interpreted to mean a facility which at design flow is capable of removing substantially all floating and settleable solids and which achieves removal of 85 percent of both the biochemical oxygen demand and suspended solids.

In addition to state requirements, Section 301(a), P. L. 92-500 states that except as provided in Section 301, 302, 306, 307, 318, 402 and 404, that all discharges of pollution are unlawful. Section 301 (b) (1) (B) in conjunction with Section 402 of the federal act allows persons to discharge pollution if they have a federal permit and if they comply with the permit limitations. These permit limitations in the case of publicly-owned treatment works are based upon secondary treatment

and these limitations must be by July 1, 1977. The federal definition of "secondary treatment" requirements is essentially the same as state requirements.

These cited sections of state and federal law leave no doubt that the Alabama Water Improvement Commission has the authority to require adequate sewage and waste treatment prior to discharging to waters of the state. The levels of treatment being required by the Commission are mandated by their own regulations as well as federal requirements. These lawful requirements may necessarily prevent the construction of a new school by the Marengo County Board of Education.

Question Two

In this question you have asked what the legal recourse of the Marengo County Board of Education would be in the event that such Board disagrees with the requirements of the Alabama Water Improvement Commission. Section 4(m) of Act No. 1260, Regular Session, 1971, provides that any person who is aggrieved by an order of the Commission has a right to a full hearing before the Commission if he makes application for such within 15 days after notice of the Commission's order. At such hearing the Commission may reconsider such order and then modify it, disapprove it, or reaffirm it. If the order is reaffirmed then the person subject to the order is obligated to obey the order or be subject to the penalties of Act No. 1260.

Question Three

Act No. 1260, Acts of Alabama, Regular Session, 1971, does not specifically provide for an appeal through a court of law from a final order which results from a Section 4(m) hearing; however, it would seem clear that the Legislature did not intend to preclude review of final orders by the courts utilizing the usual rules of appeal from administrative rulings. [See generally 24 Ala. L. Rev. 737, 753 and 22 Ala. L. Rev. 113 (1969)].

In addition, some type of limited review of a Commission's final order might be obtained in Equity by seeking injunctive relief since the Alabama courts in deciding whether to issue the desired injunction, would determine whether the Commission's actions were arbitrary, capricious, and unreasonable.

Question Four

In answer to your fourth question, the State Board of Health has only that authority given to it by the Legislature. As to whether the Board of Health may prevent the construction of a new school building which does not have an approved means of sewage disposal, the answer to this is in the affirmative.

Title 22, Section 140(14), **Code of Alabama, 1940 (1958 Recomp.)**, as amended, states:

"the State Board and/or county boards of health, acting through its duly authorized agents or employees, shall require every person, firm, or corporation, or municipal corporation, or agent thereof, owning or occupying property within the state, to install the required plumbing facilities, type and number of sewage collection treatment and disposal facilities conforming to the rules of the State Board of Health and/or county boards of health; require connection to sanitary sewer conforming to rules and regulations of the State Board of Health and county boards of health where sanitary sewers are available and are not regulated by the municipal corporation, or to dispose of sewage in such sanitary manner as shall be approved by the State Board of Health. All required sewage treatment and disposal facilities shall conform in every respect with the specifications, rules and regulations applying to these utilities made, adopted and promulgated by the State Board of Health and county boards of health, and shall be maintained as prescribed by the said rules and regulations."

Title 22, Section 140(16), **Code of Alabama**, 1949 (1958 Recomp.), as amended, states:

"All plans and specifications applying to sewage collection treatment and disposal, shall be first submitted to the State Board of Health and/or county boards of health for approval before construction. The said plans and specifications shall be approved if in conformance with said specifications, rules and regulations and the required permits for construction issued, by the State Board of Health or its duly authorized agents or employees. No person, firm, corporation or municipal corporation shall begin construction without said approval and a violation of this provision shall constitute a misdemeanor, punishable on conviction by a fine of not to exceed \$5000.00."

Under the terms of these two statutes, clearly, any person, firm, corporation, or municipal corporation who intends to build must first obtain the required permit from the State Board of Health. The county board of education is such a "person, firm, corporation, or municipal corporation" and is therefore, subject to the provisions of this statute.

Further, and in implementation of the above cited statute, by agreement between the Board of Health and the State Building Commission, the State Board of Health is "the designated health agency to approve plans and specifications to the State Building Commission and the State Department of Education." This statement is found in the **Procedures and Design Criteria for Preparation and Submission of Plans and Specifications on Sewage Treatment and Disposal, Water Supply and Food Service for Schools and Other Establishments**, a rule or regulation duly promulgated by the Board of Health.

Therefore, the State Board of Health, acting through its agents, does have the authority, based upon the above cited statutes and agree-

ment, to regulate and prohibit, where necessary, the construction of facilities without approved means of sewage disposal.

Question Five

As to your fifth question, if the Board of Health does have this kind of authority, then what legal recourse does the Marengo County Board of Education have in disagreeing with the Board of Health decision, I cite the following: Title 22, Section 138, **Code of Alabama**, 1940 (1958 Recomp.), as amended,

“Any firm, person, institution or corporation dissatisfied with any order of, or by the granting or refusal to grant any permit by the State Board of Health may appeal to any court of competent jurisdiction, within thirty days after the making of any order or the granting of or the refusal to grant any permit, and the said court shall render a decision approving, setting aside, or modifying the said order or final order or state the conditions for the granting of said permit.”

Under the terms of this statute, the Marengo County Board of Health has the right of a statutory appeal to a court of competent jurisdiction.

Question Six

In answer to your sixth question, “then in whose court and where will it be tried”, I must again cite you to the same Title 138, which states “any court of competent jurisdiction.” The statute does not state where the court of competent jurisdiction would reside. This would be determined according to general principles of law as regards jurisdiction and venue.

I hope that these comments have adequately addressed your questions. If you have any further questions, please contact me.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

May 7, 1975

Honorable David R. McWhorter
Administrative Assistant
City of Anniston
Calhoun County
Post Office Box 670
Anniston, Alabama 36201

Employment, Employers and Employees — Municipalities — Salaries

The City of Anniston may, with the cooperation of

the Civil Service Board of said City, grant to members of its Police Department an educational incentive pay plan.

Opinion by Assistant Attorney General Gish.

Dear Sir:

Your request for an opinion, dated April 23, 1975, is as follows:

"The City of Anniston would like to request an Attorney General's opinion on the following matter:

"QUESTION: Is it legal for the City of Anniston to institute an educational incentive pay plan for members of the Anniston Police Department?

"The proposal is to grant a one step pay raise to those officers with two years of college and one additional step increase would be granted at the time of graduation. This increase would apply only to those officers majoring in law enforcement or a related field."

The City of Anniston operates under that form of government prescribed by Act No. 404, Acts of Alabama 1953, page 472, as amended. This statute places the control of municipal finances in the Council of said City. See Sections 2.03 and 3.07 of said statute.

The Civil Service Board of the City of Anniston was created by and is controlled by Act No. 592, Acts of Alabama 1953, page 838, as amended. Section 9 of said statute authorizes said Board to adopt rules and regulations governing the salaries of employees in the classified service.

In order to adopt the educational incentive pay plan proposed by your request it will be necessary that the Civil Service Board of your City adopt proper rules and regulations governing such pay plan. It will also be necessary that the Council of your City make the proper appropriations to put such pay plan in effect.

Therefore, the question presented is answered in the affirmative provided that there is the proper cooperation between the Council and the Civil Service Board of the City of Anniston.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

May 7, 1975

Honorable Phillip E. LaMoreaux
State Geologist & Oil and Gas Supervisor
P. O. Drawer O
University, Alabama 35486

Employment, Employers and Employees — Teachers — Dual Officeholding — Geological Survey of Alabama — Oil & Gas Board.

A College teacher does not occupy office of profit. Employees of State Oil & Gas Board, and Geological Survey, may hold part-time college teaching positions.

Formal Opinion by Assistant Attorney General George W. Royer, Jr.

Dear Mr. LaMoreaux:

I have a request from your office dated April 24, 1975 for a formal opinion of this office. Your request reads as follows:

"Title 55, Section 254(1)-254(4), **Code of Alabama** (1940) (Recomp. 1958), as last amended, sets forth provisions governing teaching assignments at the University of Alabama by the State Geologist and the Assistant State Geologist. Article 17, Section 280, Constitution of 1901, of the **Code of Alabama** sets forth a provision prohibiting a person holding "two offices of profit at one and the same time under this state" and Title 41, Section 5(7), of the Code states that "No person holding an office of profit under the United States, shall, during his continuance in such office, hold any office of profit under this state; nor shall any person hold two offices of profit at one and the same time under this state, except notary public."

The Geological Survey of Alabama and the State Oil and Gas Board have members of their various staffs who have developed particular areas of expertise and, very frequently, receive requests from various departments of institutions of higher learning in the state to fill teaching positions. In particular, one employee of the Geological Survey of Alabama, Mr. Paul Moser, has received a request to fill a teaching position, at night and after his normal working hours here at the Survey, at Brewer State Junior College.

Honorable William T. Watson, formerly the attorney for the Survey and the Board, requested an opinion from your office concerning essentially the same situation as outlined hereinabove. Enclosed please find a copy of the response to his request from Honorable David L. Weathers, Assistant Attorney General, dated January 23, 1974. However, in view of the constitutional section, Section 280, and the said Title 41, Section 5(7), stated above, I respectfully request another official opinion from your office as to whether the professionals on the respective staffs of the Geological Survey of Alabama and the State Oil and Gas Board may teach at institutions of higher learning in the State of Alabama and, if so, under what circumstances. It appears from Mr. Weathers' said opinion, that such professionals may not teach during their normal working hours

for the Survey or the Board. I respectfully request an additional opinion taking into consideration the additional citations set forth above. I have assumed that employees under the State Merit System would not constitute an "office of profit."

It is my opinion that professional employees of the State Oil and Gas Board and the Geological Survey of Alabama may hold part-time teaching positions on the junior college or university level without violating either Section 280 of the **Constitution of Alabama** or Title 41, Section 5(7), **Code of Alabama, 1940**, as amended. In my opinion a part-time teaching position does not constitute an "office of profit" as comprehended by those provisions of law. A person who holds such a teaching position would, in my opinion, be an employee of the institution for which he teaches and does not hold an "office of profit", see Vol. 115, **Quarterly Rep. Atty. Gen.**, p. 13; Vol. 62, **Quarterly Rep. Atty. Gen.**, p. 64.

I trust that this sufficiently answers your inquiry. If not please do not hesitate to call on us again.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

May 7, 1975

Mr. Henry B. Gray, III

Alcoholic Beverage Control Board
Administrative Building
Montgomery, Alabama 36104

The ABC Board — Beer — Refund.

1. Beer, which is destroyed or otherwise disposed of before sale, is not subject to tax measured by Title 29, Section 43, Code of Alabama 1940, and wholesaler or brewer is entitled to refund of tax previously paid on such beer.
2. Opinion in quarterly report Volume 63, page 95 overruled and withdrawn.

Opinion by Assistant Attorney General McQueen.

Dear Sir:

Your letter requesting an official opinion of this office bearing date of March 11, 1975, reads as follows:

"Premium Beverage Co., Inc. and Jos. Schlitz Brewing Company have petitioned the Alabama Alcoholic Beverage Control Board for refund of Alabama taxes levied on malt or brewed beverages heretofore paid in an amount of \$10,630.80, pursuant to Title 29,

Section 43, Alabama Code of 1940, Act No. 92, Acts of Alabama Second Extraordinary Session 1963, and Act No. 746, Acts of Alabama, Regular Session 1969. Said taxes having been paid on beer (8859 cases) which was destroyed or substantially damaged by fire on December 15, 1974, and destroyed by inspectors of Federal Bureau of Alcohol, Tobacco and Firearms on January 15, 1975.

Can the State of Alabama legally refund the taxpayer the amount of taxes paid in this instance?

The Alabama Alcoholic Beverage Control Board is not averse to authorizing the requested refund. The Board is cognizant, however, of a 1951 Attorney General's opinion that was concerned with a similar question (see Attorney General's Reports, June 1951, pp. 99-100). The Attorney General's opinion indicated in this case that the Board does not have the authority to make refunds when the destruction occurs after the tax becomes due and payable. We have also reviewed a recent Alabama Supreme Court decision, **Butler and Kennamer Wholesale Company v. State**, ____ Ala. ____, 301 So. 2d 178 (1974), pertaining to taxes on cigarettes acquired for resale but not sold due to theft from place of business. While not entirely analogous, we wonder if this decision could be applied to the matter at hand.

Your advice in this matter will be appreciated."

The opinion to which you refer in your request appears in Quarterly Report of Attorney General in Volume 63 on page 95. This opinion is based upon the proposition that all beer becomes subject to the tax measured by Title 29, Section 43, *supra*, when it is received by the wholesale dealer in the state. In my opinion this holding is contrary to the principle set forth in the very recent case of **Butler and Kennamer Wholesale Company vs. State**, and should be overruled and withdrawn.

The **Butler and Kennamer Wholesale Company vs. State** case dealt with the refund or tax liability of cigarettes which were stolen prior to the sale in the State of Alabama. The cigarette tax is levied under the provisions of Title 51, Section 718 of the Code of Alabama, and the tax "should be measured by and graduated in accordance with the volume of sales." Similar language appears in Section 43, *supra*, and the tax on beer is likewise measured and graduated in accordance with the volume of sales.

The following quotation from Butler is pertinent to your request:

"The provision in § 718 that the tax 'shall be measured by and graduated in accordance with the volume of sales' appears to this writer to be plain and unambiguous. The meaning appears to be that unstamped cigarettes which are stolen from the wholesaler and are not sold are not to be included in the 'volume of sales.'"

In the instant case the beer here considered was destroyed by Federal agents and was never sold in the State of Alabama. Applying the yardstick in Butler, it appears that this beer should not be included in the volume of sales and was therefore not subject to the tax levied by Section 43, supra.

Due to the fact that this beer came into the state with the tax already paid thereon, and was not sold, it should not be included in the amount of tax due from Premium Beverage Company, Inc. and Joseph Schlitz Brewing Company.

You are therefore advised of my opinion, the companies here considered are entitled to a refund of tax on the unsold beer in the amount of \$10,630.80.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

May 14, 1975

Hon. Larry W. Morris
Member, House of Representatives
Madison Street
Alexander City, Alabama 35011

Solicitors — Residence — Counties Under existing laws
County Solicitor is required to be a qualified elector and
resident of that county.

Opinion by Assistant Attorney General Clark

Dear Mr. Morris:

Your request for official opinion dated March 13, 1975, is as follows:

"I need an Attorney General's opinion from you addressing itself to the question of whether or not a County Solicitor has to reside in the county in which he is a solicitor. I have researched the law and discussed this problem with David Clark in your department and he finds no opinion nor any legal precedence or statutory law concerning this problem. This question would encompass whether or not he has to reside in the county at the time of his election or appointment but does not need to address itself to the question of whether he has to continue to live in the county if he had previously lived there at the time of election or appointment.

Your prompt attention to this matter will be appreciated."

Title 13, Section 256, Code of Alabama 1940, provides for the appointment of a deputy solicitor in each county of a circuit and prescribes the duties of such deputy solicitor.

This office in an opinion to the Circuit Solicitor of the 16th Judicial Circuit, Gadsden, Alabama, held that a deputy solicitor was a county officer under the authority of this state. Biennial Report for 1926-1928. page 103. That opinion further held:

"You will note that by subdivision one of the Section 2575 of the Code (Title 41, Section 5) no person is eligible to and qualified for holding an office under the authority of this State unless he be a qualified elector, or unless it may have been expressly provided that for that particular office he need not be a qualified elector. An investigation will disclose that there is no express provision in the Constitution or statutes of this state that a deputy solicitor appointed by you need not be a qualified elector."

At the present time there are district attorneys and deputy district attorneys as the term "solicitor" has been replaced by "district attorney."

In my opinion, the County Solicitor (Deputy District Attorney) would have to be a qualified elector of that county and a resident thereof, whether he be appointed or elected.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

May 15, 1975

Honorable George C. Seibels, Jr.

Mayor

City of Birmingham

City Hall

Jefferson County

Birmingham, Alabama 35203

Municipalities — Funds

The expenditure of federal funds by a municipality for a community development program discussed.

Opinion by Assistant Attorney General Gish.

Dear Mayor Seibels:

Reference is made to your request of April 21, 1975, for an opinion of this office which reads as follows:

"The City of Birmingham is now in the process of preparing its application to the U.S. Department of Housing and Urban Renewal for a grant to fund its Community Development Program under P. L. 93-383 (Housing and Community Development Act). Activities which are eligible for such grant assistance are set forth in Section 570.200, Subpart C. Chapter V,

Title 24, Code of Federal Regulations (Vol. 39, Number 220, November 13, 1974, Federal Register), a copy of which section is enclosed herewith. The City would like to include in its application plans for financing rehabilitation of buildings and improvements, including privately owned properties, through the use of grants, direct loans, loan guarantees, and other means as is provided for by subsection (a) (4) (ii) of said section 570.200.

"The City would also like to include in its application plans for payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by its Community Development Program, activities, as is provided for by subsection (a) (6) of said Section 570.200.

"Application requirements, are set forth in Section 570.303, Subpart D, of said Chapter V. Assurances and certifications are contained in H. U. D. form number 7015.12 (Nov., 1974) entitled 'Assurances,' a copy of which is enclosed. One of these assurances is that the applicant possesses legal authority to apply for the grant and to execute the proposed program.

H. U. D. officials will not approve the City's application without being satisfied regarding such assurances. Upon approval of the application, a letter of credit in behalf of the City will be issued, against which the City will requisition sums as needed to accomplish the various parts of its Community Development Program.

"Based upon the above premises, I would like to request an official opinion from you in answer to the following questions concerning the desired plans mentioned above:

"1. Whether or not the City can use a part of the Community Development grant funds received by it to make grants, loans, or loan guarantees to private persons, firms or corporations for the purpose of conducting or carrying out the activities made eligible by said subsection (a) (4) (ii) of said Section 570.200 (rehabilitation of privately owned properties) consistently with the provisions of the laws and constitution of the State of Alabama, especially Article IV, Section 94 of said constitution?

"2. Considering that the City must provide for the relocation of individuals and families displaced by its program activities (subsection (c) (3) of said Section 570.303), can the City use a part of such grant funds received by it upon such requisition to carry out the activities made eligible by said subsection (a) (6) of said Section 570.200 (payments to temporarily hold housing open for relocation purposes) consistently with the provisions of the laws and constitution of the State of Alabama?"

Your first question is answered in the affirmative.

The Supreme Court of Alabama in an **Opinion of the Justices**, 254 Ala. 343, 48 So. 2d 757, held that a statute authorizing the taking of land in a slum area by a municipal housing authority and the disposal of such land at its use value in accordance with a plan using federal funds for the redevelopment by private enterprise or by public agencies does not violate the Constitution of Alabama 1901, Section 94. I am of the opinion that said case and the authorities therein authorize the City of Birmingham to use federal funds in the manner contemplated by your first question.

Your second question is also answered in the affirmative.

Act No. 77, Acts of Alabama, Second Special Session 1975, approved March 10, 1975, authorized municipalities to provide relocation assistance to persons displaced by the acquisition of real property under local land acquisition programs. This statute specifically applies to the expenditure of funds under a federal statute other than the one here considered. However, said Act should be construed liberally and should apply to relocation assistance under the federal statute to which your request refers.

The constitutional question here considered is controlled by the case cited above. See also **Newberry v. City of Andalusia**, 257 Ala. 49, 57 So. 2d 628, and **Opinion of the Justices**, 254 Ala. 506, 49 So. 2d 175.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

May 16, 1975

Miss LaBonne Gilliland
Clerk

City of Warrior

215 Main Street

Jefferson County

Warrior, Alabama 35180

Municipalities — Parks.

Operation of a municipal park discussed.

Opinion by Assistant Attorney General Gish.

Dear Miss Gilliland:

Your request for an opinion dated May 6, 1975, is as follows:

"The City of Warrior has a park that has been open approximately two years and is a problem due to the fact that the

more the governing body gives the citizens the greater their demands. Council needs legal opinions on several questions.

"The city has built and equipped (essential equipment such as a stove, refrigerator, etc.) a concession stand. Can the concession stand be leased for \$10.00 per year to an individual or individuals representing and giving all profits to the Little League Baseball team, when other base ball leagues such as BABF are requesting the use of the stand during their games so that they may have the profits from sales? I understand that the concession stand is open only at the discretion of the little league workers. They have no set or posted opening and closing time days or hours, is probably open during their games only. Under these conditions should the city pay the utility bills on the stand?

"The park area is abutting a church and cemetery—should restrictions be made as to opening and closing hours during church service, funerals, etc?

"Is it legal for teams outside of Warrior to use the park for ball practice and games while the citizens of Warrior are protesting because they do not have a place to practice their games? There are twenty-two teams involved. Local teams or outsiders do not pay any fees to offset city expenses such as park maintenance, lighting of ball field, etc. Lighting the ball field is expensive during season.

"Can the city furnish equipment for certain teams, such as bases, balls, bats and uniforms?

"Is the city liable for damages if a ball goes outside the park and does any personal damage?

"Can the city build a park on leased property?

"The city officials desire a legal and fair program for park operations and certainly do not wish to discriminate against anyone. Any legal advice you give them in addition to these questions will be greatly appreciated."

You indicate that the City of Warrior has not created a Park and Recreation Board. Title 37, Section 429, Code of Alabama 1940, Recom-piled 1958, places the control of all municipal property in the municipal council.

One of your questions concerns the leasing of a concession stand located on municipal park property. I am of the opinion that said concession stand should be leased to an individual or organization who will keep the stand open for business during the periods in which all competitive sports are taking place. The municipality should receive an adequate consideration from the leasee of this concession stand. Quarterly Report of Attorney General, Volume 150, page 10.

You state that the municipal park abutts church property and you question whether the park should be closed during the time when church services are being held. This is a question of policy which must be left to the discretion of your City Council.

You next refer to various teams in competitive sports which practice and play games at the park here involved. Your question concerns expenses such as the maintenance and lighting of the park.

I am of the opinion that the municipal council has authority to change such teams reasonable fees so as to reimburse the City for lighting and maintenance of the park. This question must be left to the sound discretion of said Council.

You also question the authority of the municipality to furnish certain equipment such as bases, balls, bats and uniforms. While the City has authority to equip the park it has no authority to furnish to ball clubs their uniforms and other equipment. See Quarterly Report of Attorney General, Volume 59, page 12.

You also question the City's liability for personal injury of property damage arising out of the operation of the park. Such operation is governmental and the City cannot be held liable for such injuries or damages. **Parham v. City of Decatur**, 268 Ala. 585, 109 So. 2d 692.

Your last question is whether a municipality may establish a park on leased property. This question must be left to the discretion of the municipal governing body. The term of the lease, as well as other provisions contained in the lease agreement, should be carefully considered if a park is proposed to be established on the property.

We hope that this opinion furnishes the desired information.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

May 23, 1975

Honorable W. F. Daughtry

Member, Geneva County Board of Education

Route 1

Hartford, Alabama

Teachers — Boards of Education

County superintendent may not cause teacher's contract not to be renewed simply by superintendent's failure to submit teacher's name to county board for consideration.

Opinion by Assistant Attorney General Hamlett

Dear Mr. Daughtry:

I have your letter of May 21, 1975, in which you request an opinion concerning certain duties and responsibilities of the County Board of Education and the County Superintendent of Education. Specifically, you ask whether a county superintendent of education may cause certain teachers not to be rehired or their contracts to be renewed through the superintendent's failure to submit their names to the county board of education for consideration. My answer is in the negative. Such action by the superintendent cannot preclude the rehiring of such teachers.

It is my opinion that only the county board of education may make the determination as to whether or not to renew a teacher's contract for the succeeding school year.

This opinion is based upon Title 52, Section 361(2), Code of Alabama 1940, Recompiled 1958, and the decision of the Supreme Court of Alabama, in **Board of Education of Marshall County v. Baugh**, 240 Ala. 391, 199 So. 822 (1941).

In **Board of Education of Marshall County v. Baugh**, *supra*, the court found that the decision of reemployment *vel non* rests with the county board of education not the superintendent. There the court, referring to Title 52, Section 360, Code of Alabama 1940 (now substantially Title 52, Section 361 (2), Code of Alabama 1940, as Recompiled 1958), stated:

"It is clear enough this provision . . . was intended to secure to the teacher a continuing service for the succeeding year, unless notified to the contrary . . . and that this written notice to the contrary must be given under the direction of the county board . . .

"It is the county board that must determine this important matter, and no one else, and the action of the board in this respect involves a delicate exercise of a wise discretion."

240 Ala. at 394-395.

In that case the court goes further finding that:

"The very laudable purpose of [the Teacher Tenure Act, of which § 360, *supra*, is a part] was to insure to the teachers some measure of security in their important work, and to free them, at least to a measurable extent from the vicissitudes of politics' or the likes or dislikes of those charged with the administration of school affairs."

Id at 395.

The court then states that because of this purpose, the Tenure Act must be construed liberally in favor of those whom it is designed to protect.

Title 52, Section 361 (2), *supra*, is still clear in stating:

“Any teacher in the public schools, whether in continuing service or not, shall be deemed offered reemployment for the succeeding school year at the same salary, unless the employing board of education shall cause notice in writing to be given said teacher on or before the last day of the term of the school in which the teacher is employed . . .”

It is, therefore, my opinion, based upon the foregoing authorities that the county superintendent is under a duty to submit to the county board for the purpose of consideration for reemployment, the names of all teachers who were employed by the board for the preceding school year. This is true so that the board may make a decision concerning reemployment. If the superintendent fails to include on this list the names of certain teachers and the board fails to take action on the question of reemployment, then the teachers, by law, will be “deemed offered re-employment” for the succeeding school year.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

June 19, 1975

Honorable J. Wagner Finnell

City Attorney

City of Tuscaloosa

P. O. Box 2089

Tuscaloosa, Alabama 35401

The Alabama Uniform Controlled Substances Act is a state felony statute and cannot be included as a municipal offense. Therefore, municipalities cannot prosecute persons for possession of marijuana.

Opinion by Asst. Attorney General Wm. A. Davis, III.

Dear Mr. Finnell:

This office is in receipt of your letter of June 4, 1975 in which you requested an opinion as to whether the City of Tuscaloosa, pursuant to Section 23—1 of its Code, can prosecute persons for possession of marijuana, even if they are first offenders and the possession was for personal use only.

My opinion is the answer to this question is negative.

You are correct in stating that in Alabama municipalities may adopt an ordinance providing that the violation of a state misdemeanor

statute shall constitute a municipal offense. It appears from your letter that the City of Tuscaloosa has properly adopted such a statute. However, it is my opinion that the Alabama Uniform Controlled Substances Act, Title 22, Section 258 (47) is a felony statute and not a misdemeanor statute. Looking at the statutory language of Title 22, Section 258 (47) one can see that felony features are prevalent in the language. By adopting this statute, the City of Tuscaloosa thus adopts statutory language concerning the prosecution of felonies. **Downey v. City of Bay Minette**, 39 Ala. App. 619, 106 So. 2d 32 (1958) clearly states that the inclusion of a felony as a municipal offense renders a municipal ordinance void. **Thompson v. City of Sylacauga**, 240 Ala. 648, 200 So. 795 (1941) is another case somewhat on point. In **Thompson** a municipal ordinance was held void because the ordinance contained language that was broad enough to include a felony, a crime over which the municipality had no jurisdiction.

Thus, it is my opinion that all possession of marijuana cases must be prosecuted by indictment only.

Sincerely yours,

WILLIAM J. BAXLEY
Assistant Attorney General

June 20, 1975

Honorable Julian Harris
Morgan County Attorney
P. O. Box 1662
Decatur, Alabama 35601

Costs and Fees — Justice Court — Counties — Public
Safety Department.

The five-dollar (\$5.00) arrest fee provided for in Title 36, Section 58(63), *infra*, is remitted to the Director of Public Safety to be transmitted to general fund of the State.

Opinion by Assistant Attorney General DeBardelaben.

Dear Sir:

This letter is in response to your letter of May 9, 1975 concerning the five-dollar (\$5.00) arrest fee provided for in Title 36, Section 58(63), Code of Alabama 1940, Recompiled 1958, 1973 Cumulative Supplement. Your question asks whether, in view of Title 13, Section 515, Code of Alabama 1940, Recompiled 1958, 1973 Cumulative Supplement, the five-dollar (\$5.00) arrest fee should be deposited in the general fund of the county. Your question is answered in the negative. It is the opinion of this office that the five-dollar (\$5.00) arrest fee provided for in Title 36, Section 58(63), *supra*, should be turned over to the Director of

Public Safety to be transmitted by him to the general fund of the State.

Title 36, Section 58(63), *supra*, effective November 7, 1961, is as follows:

"In all cases where arrests are made by a state highway patrol officer, an arrest fee of \$5.00 for such arrest shall be collected by the proper authorities and promptly turned over to the director of public safety, who shall cover the same into the state treasury to the credit of the general fund. Provided, however, that no witness fee, arrest fee, mileage cost, or any other fees or costs shall be paid by any county out of its funds to said department and no fine and forfeiture claim shall be issued against the fine and forfeiture fund of any county to or for any such highway patrol officer for or on account of those cases brought in any court or before any grand jury by any such officer wherein no indictment is found, the state fails to convict, or the indictment or complaint abates or is nolle prossed or its (is) withdrawn and filed in such case."

Title 13, Section 515, *supra*, effective January 1, 1972, is as follows:

"All laws pertaining to costs and fees in the cases in justice of peace courts as heretofore provided by the general laws of this state shall be applicable to this court except as herein otherwise provided. Any law to the contrary notwithstanding, all fees, and costs shall be collected by and paid by the court into the general fund of the county in which said court is held." (Emphasis added)

It appears that Title 36, Section 58(63), *supra*, and Title 13, Section 515, *supra*, are in conflict. The first sentence of Title 13, Section 515, *supra*, which provides for costs and fees applicable to the court in question, states only that the costs and fees that were applicable to "cases in justices of the peace courts . . . , shall be applicable to this court except as herein otherwise provided." No other section in Title 13, Chapter 9, Sections 506-521, Code of Alabama, 1940, Recompiled 1958, 1973 Cumulative Supplement, provided for other costs and/or fees.

The apparent conflict is created by the last sentence of Title 13, Section 515, *supra*. The sentence states that:

" . . . all fees, and costs shall be collected by and paid by the court into the general fund of the county"

It must be pointed out that justices of the peace were fee-basis officials and the fees provided for them in Title 11, Sections 38 and 96, Code of Alabama 1940, Recompiled 1958, 1973 Cumulative Supplement, were the only compensation they received. The Justice Court was created to replace the justice of the peace court and the judge of the court is paid a salary as are the other court officials. Thus, it is my opinion that the wording used in the last sentence of Title 13, Section 515, *supra*, is to insure that the costs and fees collected by the court

are deposited in the general fund of the county treasury and not paid to any individual as compensation.

The five-dollar (\$5.00) fee provided for in Title 36, Section 58(63), *supra*, was never intended to be a fee for the justices of the peace. The five-dollar (\$5.00) arrest fee is a special fee to be deposited in the State Treasury to help defray certain costs. The arrest fee exempts a county from paying "witness fees, arrest fees, mileage cost, or any other fees or costs . . . out of its (county) funds to . . ." the Department of Public Safety. If it was not for Title 36, Section 58(63), *supra*, a county would have to pay witness fees, arrest fees, mileage cost, and other costs and fees out of county funds to the Department of Public Safety when an arrest is made by a state trooper.

The case of **Reid v. City of Birmingham**, 150 So. 2d 735, 274 Ala. 629, held that if under reasonable construction both allegedly irreconcilable acts could operate, both would be given effect. It is my opinion that, in view of the above discussion, a reasonable construction of Title 13, Section 515, *supra*, is that the only costs and fees chargeable by the Justice Court are those specified in Title 11, Sections 38 and 96, *supra*, and Title 13, Chapter 9, *supra*, and these costs and fees are to be deposited in the general fund of the county. The five-dollar (\$5.00) arrest fee charged by Title 36, Section 58(63), *supra*, is an automatic fee imposed by virtue of an arrest by a state trooper and must be remitted to the state general fund.

If this office may be of any further assistance in this matter, please let us know.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

June 26, 1975

Mr. Willard Moss
Tax Assessor

Chatom, Alabama 36518

MOTOR VEHICLES — AD VALOREM TAX

1. Where the ad valorem tax lien has attached on a motor vehicle used on the highways of this State on or after October 1 of the tax year, such lien is not extinguished by the fact that the vehicle is later sold to a dealer and passes through his stock or inventories during said year.
2. Such tax lien continues, and is not satisfied, until the tax secured thereby is paid.
3. Under the 1961 Amendment (Acts 1961, p. 822) to Title 51, Section 504, as amended, *infra*, the ad valorem tax on

average inventories as levied under 'Title 51, Section 21(d), infra, has been expressly repealed insofar as it applied to motor vehicles. Such vehicles are said to be under said Amendment assessed as is provided in 'Title 51, Section 704.

4. The quarterly-declining basis for assessment prescribed in Section 704, as amended, in certain cases, would not apply under the circumstances here involved.

Opinion by Assistant Attorney General Burton.

Dear Sir:

Your request for an official opinion of this office under date of June 10, 1975, is as follows:

"Your attention is invited to that Opinion of The Attorney General to Mrs. Louise S. Champion, Tax Assessor, Montgomery County, dated March 18, 1960, published in Volume 98, page 36, which states in part:

'Act No. 654,' has also served to give a somewhat different meaning than that previously ascribed to the last sentence of Section 704, supra, which concerns dealers' inventories, and motor vehicles which are purchases in this State from such inventories during the tax year. Under the Act, if a motor vehicle is a part of a motor vehicle dealer's stock of goods and inventories **at any time** during the tax year, it is included in the dealer's average inventories for ad valorem tax purposes for that tax year, and is not to be subject to the tax under Section 704, as amended, supra, as a motor vehicle. * * * *

"In the example provided, the motor vehicle in question was owned and was being operated upon the highways of the State of Alabama on October 1, 1973 by the individual so stated in the dealer's affidavit; however, such owner and operator did not assess the vehicle for tax purposes for the particular year at any time from October 1, thru the date of sale to the dealer on November 7, 1973.

"Questions:

1. Does that portion of the above quoted opinion which reads: " * * if a motor vehicle is a part of a motor vehicle dealer's stock of goods and inventories at any time during the tax year, it is * * * not to be subject to the tax * * * " mean that the vehicle in question which came into the inventory on November 7, 1973 is not subject to assessment at any time during the period October 1, 1973 thru September 30, 1974?
2. Is the thinking relative to the **Law Day**, October 1st, as pertains to real estate, also apply to motor vehicles? If so, in this instance, on October 1, 1973, did the motor vehicle become subject to the tax lien for ad valorem purposes? Or,
3. Is it true that, although the tax lien became affixed on October 1, 1973, it was vacated subsequently on November 7,

1973 when the motor vehicle became a part of the dealer's inventories?"

The opinion of the Attorney General dated March 18, 1960, and which is reported in Quarterly Report of the Attorney General, Volume 98, page 37, and to which you refer in your request is no longer applicable, nor does it now constitute a correct interpretation of Title 51, Section 704, as amended, Code of Alabama 1940, Recompiled 1958. That opinion construed Section 704 as it was amended by Act No. 654 of the 1959 Regular Session of the Legislature, effective October 1, 1960 (Acts 1959, p. 1583).

A little over a year later, and effective October 1, 1961, Section 704 was rewritten and insofar as is applicable to your question, it was very materially changed by Act No. 660 of the 1961 Regular Session of the Legislature (Acts 1961, page 822). However, even before the effective date of Act No. 660, supra, and the 1961 Amendment to Section 704, this office in an opinion dated September 22, 1961, and reported in Quarterly Report of the Attorney General, Volume 104, page 41, had in pertinent part overruled the opinion of this office of March 8, 1960, and which is referred to by you in your request.

In fact, the last sentence of Section 704, which relates to motor vehicle dealers' stocks of vehicles, was completely rewritten and changed effective October 1, 1961, by Act No. 660, and the ad valorem tax on average inventories of merchandise, etc., levied under Title 51, Section 21(d), Code of Alabama 1940, Recompiled 1958, was expressly repealed in said Act insofar as amended, supra. Therefore, there is no longer an average inventory tax under Section 21(d), supra, applying to motor vehicles.

Section 704, as amended in 1961 by Act No. 660, also provides that motor vehicles which are "brought into the State during any tax year, or new motor vehicles for which licenses have never been issued, sold from the stock of a dealer during any tax year, shall be subject to taxation the same as if they had been held or owned in this State on the first day of October, except that taxes thereon shall be assessed on a quarterly basis . . ." The "law Day" October 1, at the beginning of the tax year, has now been extended for the entire tax year, and such vehicles are subject to assessment for the tax under Section 704 during the quarter of the year in which they are brought into the State, or in the case of a new car, for which licenses have never been issued, the quarter of the tax year in which the car was sold from the stock of a dealer. Thus, in such cases the tax is assessed on a quarterly-declining basis.

In the case given by you as an example, and as the vehicle involved was very obviously operated on the highways of this State by the individual on October 1, 1973, and thereafter, until he sold the vehicle to a dealer on November 7, 1973, such vehicle became subject to assessment for the tax under Section 704, and the ad valorem tax lien attached on such vehicle, on October 1, 1973. Moreover, such tax lien could not

be satisfied or removed except by the payment of the tax, when it became due and payable on October 1, 1974, at the end of the tax year. The fact that the vehicle involved passed through a dealer's inventory during the tax year did not vacate the assessment for the tax under Section 704, nor did it satisfy the tax lien. Quarterly Reports of the Attorney General, Volume 104, page 41, and Volume 55, page 144, respectively.

Under the facts then, the assessment under Section 704 would be from October 1, 1973, and for the entire tax year, and in such cases the quarterly basis for assessment under Section 704 as amended by Act No. 660 in 1961, *supra*, would **not** be applicable.

The foregoing being considered, your questions are answered, as follows:

1. Your first question is answered in the negative. For the reasons above stated, and under Act No. 660 of the 1961 Regular Session, *supra*, the motor vehicle to which you refer having been owned by a person other than a dealer and used on the highways of this State by such person on or after October 1, 1973, before being sold to a dealer, and put in the dealer's stock, on November 7, 1973, is subject to the tax lien which attached to such vehicle on October 1, 1973, the "Law Day," and such lien cannot be removed therefrom until the tax, under the circumstances, is paid for four quarters or for the full ad valorem tax year, beginning on October 1, 1973, and ending on September 30, 1974.

2. Your second question is answered in the affirmative. Under the circumstances as enumerated by you, the ad valorem tax lien attached to said vehicle on the "Law Day," October 1, 1973, and the tax under Section 704 is due for the entire tax year, beginning October 1, 1973, and ending on September 30, 1974.

3. Your third question is answered in the negative. As the vehicle had been used on the highways of this State on or after the "Law Day," October 1, 1973, the ad valorem tax lien had attached, and cannot be removed until satisfied by payment of the tax for the entire tax year. The fact that the vehicle involved later in the year passes through a dealer's stock or inventories would not remove the lien where, as here, it has already for said year attached.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

June 26, 1975

Honorable Norman C. Wood
Mayor
City of Talladega
Talladega County

Post Office Box 498

Talladega, Alabama 35160

Municipalities

Municipal liability for personal injury and property damage discussed.

Opinion by Assistant Attorney General Gish

Dear Mayor Wood:

Reference is made to your request of June 20, 1975, for an opinion of this office to which you attach a claim against your City.

Said claim reads, in part, as follows:

"On Wednesday, April 23, 1975, at approximately 2:00 p.m., the said Clayton Morrison was involved in an accident at the intersection of Coosa Street and Spring Street in the City of Talladega. My son was riding a 1973 SL Honda 100 motorcycle and was proceeding north on Spring Street. A Mr. William P. Pittman, who was driving a 1975 Chevrolet two-door automobile, was proceeding west on Coosa Street. At this intersection, Spring Street is a through street and only Coosa Street is controlled by stop signs. The Pittman automobile continued west into the intersection and collided with my son's motorcycle. The Pittman automobile did not stop before proceeding into the intersection. It was determined at the accident scene that the stop sign that normally controlled the west bound traffic on Coosa Street had been removed and taken down and that there was no traffic control device to prohibit west bound traffic on Coosa Street from continuing through that intersection."

You ask the following questions:

- "1. Is there a liability on the part of the City in this incident?
- "2. If there is no liability on the City's part, can the City legally pay for medical expenses or property damage growing out of this case?"

On July 10, 1975, the Supreme Court of Alabama rendered its decision in the case of **Jackson v. City of Florence** completely doing away with the doctrine of governmental immunity for cities and towns generally.

Therefore, it is possible that the City of Talladega may be liable in this incident, but liability would depend on litigation of the case.

Your second question is answered in the negative. You are advised that any payment for medical expenses or property damage to which your request refers would violate the Constitution of Alabama 1901, Section 94.

We trust that this opinion furnishes the desired information.

Very truly yours,

WILLIAM J. BAXLEY

Attorney General

INFORMAL OPINIONS

During the period April 1, 1975 through June 30, 1975, the Attorney General rendered the following informal opinions.

Subject	Addressee	Date	File
— A —			
ABC BOARD			
ABC Board—Used Aviation Communication Equipment	Henry B. Gray	May 14	ABC Board
Wine Wholesaler—Title 29	Joseph W. Adams	May 13	ABC Board
AD VALOREM			
County Commission—Decrease of Ad Valorem Tax	J. Shelby Searcy	May 9	199
Coal Mine—Ad Valorem Exemption	Sam Collins	Apr. 3	240
Office Exemption—Ad Valorem Exemption	James E. Witherington	June 3	50
Act 1000, 1971 Acts— Mobile Homes	Michael S. Harvey	June 3	319
AIR POLLUTION COMMISSION			
Air Pollution Control—Variance Procedures	James W. Cooper	Apr. 4	Air Pollution Control Comm.
AIRPORTS			
Airport Authorities—Competitive Bid Law	Edward Jackson	May 22	227
ALABAMA DEVELOPMENT OFFICE			
Coastal Area Board—Private Attorney	R. C. Bamberg	Apr. 30	ADO
ALABAMA LAW INSTITUTE			
Alabama Law Institute—	Bob McCurley	May 22	235

Subject	Addressee	Date	File
Expenses for Annual Meeting			
ALABAMA PUBLIC SCHOOL & COLLEGE AUTHORITY			
Ala. Public School & College Authority— May Contract with County—Bid Law Inapplicable	James R. Solomon	Apr. 24	Alabama Public School & College Authority
ALCOHOLIC BEVERAGES			
Mobile Sales Tax on Wines— Paid on Retail Purchase Price	Paschal P. Vacca	June 17	95
AMBULANCE SERVICE			
City Funds—Private Ambulance Service	Wayne Harrison	May 30	223
ARRESTS			
Fines & Fees Disposition—Game & Fish Laws—Water Safety Law	William A. Kynard	Apr. 22	242
ARTS & HUMANITIES COUNCIL			
Arts & Humanities Council—Numbers of Nominees for Membership	M. J. Zakrzewski	May 23	Arts & Human- ities Council
ATTORNEYS			
Attorney Fees—District Attorney's Fund— Bar Association	Fred B. Simpson	May 8	110
Municipal Funds—Legal Defense of Councilman	L. N. Payne	June 24	236

Subject	Addressee	Date	File
AUDITOR			
Sunshine Law—Travel Expenses— Morgan County Schools	Bettye Frink	Apr. 18	Auditor Office
	— B —		
BASTARDY			
Paternity—Illegitimate Children	J. Paul Meeks	June 13	144
BIBB COUNTY			
Retirement Pension—State Troopers— Bibb County Probate Judge	W. T. Vandeford	June 9	164
Salary of District Attorney— Bibb County—1970 Census	Glenn M. Smitherman Earl Mayfield	June 18	283
BIRMINGHAM, CITY OF			
General Law of Local Application— City Government Changed	Russell Yarbrough	Apr. 25	246
BOARD OF CORRECTIONS			
Escaped Convict—Remains on Escape Status	L. B. Sullivan	Apr. 23	Bd. of Correction
Prison Escapee—Credit for Incarceration Upon Recapture	L. B. Sullivan	Apr. 23	Bd. of Correction
State Prisoner—Access to Prison Records	L. B. Sullivan	Apr. 29	Bd. of Correction
BOARDS OF EDUCATION			
Sunshine Law—Travel Expenses— Morgan County Schools	Bettye Frink	Apr. 18	Auditor's Office
Local Boards of Education—	Frank Earnest	Apr. 3	200

Subject	Addressee	Date	File No.
Borrow Funds—School Stadium			
Teacher Tenure—Reemployment for Fourth Year	Billy R. Fralish	May 30	217
Teacher Tenure—Fourth Year Reemployment	Jim Boyd	Apr. 7	224
Notice of Contract Cancellation—Tenured Teacher	J. Richmond Pearson	June 9	8
Teacher Personal Leave—Must Be Granted	Morgan Reynolds	May 26	228
Suspension of Student—Notice and Hearing Required	Jimmy R. Clements	May 19	229
School Board of Trustees—Student's Parents Nominate	Frank Reed	May 21	75
Student Suspension—Withholding Information of Felony	J. Richmond Pearson	June 16	8
BOARD OF EQUALIZATION			
Tax Assessor—Cannot Lower Property Assessment	Jack Friday	Apr. 17	247
BOARDS OF REGISTRARS			
Residence—Voting Eligibility	Virginia Sansing	June 18	234
BONDS			
Medical Clinic Board—Note Secured by Mortgage	C. H. Wampold	May 12	202
Appearance Bond Forfeited—Condemnation of Confiscated Pistols	Timothy W. Morgan	Apr. 7	252

Subject	Addressee	Date	File No.
— C —			
CALHOUN COUNTY			
3-Member County Commission—Votes and Motions	Marshall Prickett	May 6	204
CANDIDATES			
City Council Member—Spouse Police Officer	Barry N. McCrary	June 30	299
CHAMBERS COUNTY			
Salaried Tax Assessor—No Fees for Plat Books	William B. Gilbert	Apr. 11	56
CHAMBERS OF COMMERCE			
Chamber of Commerce—Public Funds Cannot be Donated	Robert (Ken) Malone	June 9	233
CHEMICAL TEST FOR INTOXICATION ACT			
City Ordinance—Cite Specific Intoxication Test	Alexy E. Saliba	May 14	212
Driver's License Suspension—Intoxication Test	Jesse O. Bryan	June 6	271
COASTAL AREA BOARD			
Coastal Area Board—Private Attorney	R. C. Bamberg	Apr. 30	ADO
COMMISSION ON AGING			
County Funds—Commission on Aging—Transportation for Elderly Citizens	Charles R. Christopher	May 19	237

Subject	Addressee	Date	File
COMMUNITY DEVELOPMENT PROGRAM			
Community Development Program— City of Montgomery	J. Aronstein, Jr.	June 13	255
Community Development Funds— City of Albertville	Olan M. Morton	June 13	254
Community Development Program— City May Comply	William H. Brigham	June 17	258
COMPETITIVE BID LAW			
Youth Services Dept— State Purchasing Office	George M. Phyfer	Apr. 17	Youth Services Dept.
Sale of City Autos—Council Must Order	John Starnes	Apr. 3	.190
ABC Board—Used Aviation Communication Equipment	Henry B. Gray	May 14	ABC Board
Airport Authorities—Competitive Bid Law	Edward Jackson	May 22	227
State Board of Education Member— Contracts with Educational Institutions	Ralph D. Higginbotham	June 12	231
Temporary City Workers— Competitive Bid	Nelson Arnold	Apr. 29	241
City Employee—Cannot Contract With City	Fred G. Collins	May 8	244
Tannehill State Park—Bids Solicitation	James R. Bennett	June 6	259
County Commission Purchases— State Bid Price	John Hollis Jackson	June 23	261
City of Fairfield—Emergency Contract— Annual Audit	Carl H. Kilgore	May 12	263

Subject	Addressee	Date	File
COMPREHENSIVE EMPLOYMENT TRAINING ACT			
Special Assistant Attorney General— Comprehensive Employment Training Act	Charles A. Graddick	Apr. 21	177
CONFLICTS OF INTEREST			
City Councilman—Employee of Corporation—Sales to City	Robert S. Milner	Apr. 4	205
CONSERVATION DEPARTMENT			
State Parks Bond Issue— In Livingston Area	Ira D. Pruitt, Jr.	May 9	201
Fines & Fees Disposition—Game & Fish Laws—Water Safety Law	William A. Kynard	Apr. 22	242
Act 85, 1971 3rd Special Session—P. L. 93-303	Claude D. Kelley	Apr. 18	Conservation Dept.
CONSTABLES			
Constable Vacancy—Jefferson County— Governor Appoints	Carl Jolly	June 3	225
CONSTITUTIONALITY			
Proposed Legislation (H.130)— Etowah County—Budgetary Control	Gerald Waldrop	Apr. 15	213
Legislation—Population Classification— Constitutionality	Hugh Boles	May 9	215
CONTRACTS			
Alabama Law Enforcement Planning Agency—Regional Planning Board Consent Form Agreement	Robert G. Davis	June 27	ALEPA

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Coroner—Office Space and Telephone	David B. Carnes	May 23	57
CORRECTIONS, BOARD OF			
Highway Dept. Road Camps—	Frank Campbell	June 13	232
Governor May Transfer to Corrections			
COUNTIES			
County Rewards—Conviction of Criminals	Frank Ellis	Apr. 3	192
Act 1281, 1973 Acts—Cited Expenses—	Solomon Tisdale	Apr. 17	196
Discretionary Payment			
County Seat—Election To Change	Warren Rowe	May 6	197
County Funds—Child Development Center	Sam Gant	May 1	198
County Commission—Decrease of Ad	J. Shelby Searcy	May 9	199
Valorem Tax			
County Gas Tax—Military Base Must Pay	Frank Earnest, Jr.	Apr. 3	200
County Funds—Courtroom	Maury Friedlander	Apr. 24	21
Recording Equipment			
County Commission—Travel Expenses—	James C. Wood	May 23	209
Promoting Commerce			
3-Member County Commission—	Marshall Prickett	May 6	204
Votes and Motions			
Morgan County Funds—	Thornton Fleming	May 27	146
"Spirit of America Festival"			
County Funds—Commission on Aging—	Charles R. Christopher	May 19	237
Transportation for Elderly Citizens			
County Budget—Indebtedness	Harry Sizemore	June 19	239
County Contract—Private Corporation—	Robert T. Crowe	June 18	256
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Subject	Addressee	Date	File
County Commission Purchases— State Bid Price	John Hollis Jackson	June 23	261
County Courthouse Parking Lot— Paved by State—Captive County	W. W. Weatherford	June 17	26
County Loans—\$50,000 Limit	James A. Avary	June 30	34
COURTHOUSES			
County Seat—Election to Change	Warren Rowe	May 6	197
COURT REPORTERS			
Supernumerary Court Reporter— No Additional Compensation	Claud D. Neilson	June 16	272
COURTS			
County Funds—Courtroom Recording Equipment	Maury Freidlander	Apr. 24	21
Appearance Bond Forfeited— Condemnation of Confiscated Pistols	Timothy W. Morgan	Apr. 7	252
CRIMINAL LAW			
Crimes of Violence—Firearm Possession— Court Jurisdiction	Mylan R. Engel	May 27	226
City of Tuscaloosa—Cannot Prosecute for Marijuana Possession	J. Wagner Finnell	June 19	45
— D —			
DALLAS COUNTY			
County Gas Tax—Military Bases Must Pay	Frank Earnest, Jr.	Apr. 3	200

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Filing Tax Refund—Mistake of Fact or Law Discussed	Walker Hobbie, Jr.	June 24	269
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Board of Dental Examiners—X-Ray Personnel Licensure	Walter Allen	May 14	Dental Examiners Board
DENTISTS			
Board of Dental Examiners—X-Ray Personnel Licensure	Walter L. Allen	May 14	Dental Examiners Board
DISTRICT ATTORNEYS			
Special Assistant Attorney General—Comprehensive Employment Training Act Attorney Fees—District Attorney's Fund—Bar Association	Charles A. Graddick	Apr. 21	177
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Attorney Fees—District Attorney's Fund—Bar Association	Fred B. Simpson	May 8	110
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Subject	Addressee	Date	File No.
Water-Sewer Board/Supt. of Utilities— Mayor Cannot Be Both	L. N. Payne	May 29	236
—E—			
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State Board of Education Member— Contracts with Educational Institutions	Ralph D. Higginbotham	June 12	231
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EMPLOYMENT, EMPLOYERS & EMPLOYEES			
Retired City Employee—Return to Work— Ineligible for Benefits	Wade D. Baxley	May 27	109
City of Fairfield—Emergency Contract— Annual Audit	Carl H. Kilgore	May 12	263
EMPLOYERS & EMPLOYEES			
City Employee—Cannot Contract with City	Fred G. Collins	May 8	244
City Compensation of Disabled Employee— Workmen's Compensation Act	S. R. Sheppard	Apr. 11	150
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ETHICS COMMISSION			
Cabinet Member—Stock in Blind Trust	Melvin G. Cooper	May 21	Ethics Comm.
County Solicitors—State Officials— Ethics Act	Melvin G. Cooper	June 11	Ethics Comm.
ETHICS LAW			
State Board of Education Member— Contracts with Educational Institutions	Ralph D. Higginbotham	June 12	231
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Alabama Law Institute— Expenses for Annual Meeting	Bob McCurley	May 22	235
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FAYETTE COUNTY			
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Filing Tax Refund—Mistake of Fact or Law Discussed	Walker Hobbie	June 24	269
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County Commission Purchases—	John Hollis Jackson	June 23	261
State Bid Price			
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Condemnation of Confiscated Pistols	Timothy W. Morgan	Apr. 7	252
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Public Fireworks Display—			
Subject to Rules of Fire Marshal	Glenn Kent	May 22	230

Subject	Addressee	Date	File No.
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Public Fireworks Display— Subject to Rules of Fire Marshal	Glenn Kent	May 22	230
FORESTRY COMMISSION			
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County Funds—Child Development Center Alabama Public School and College Authority—May Contract with County— Bid Law Inapplicable	Sam Gant, II James R. Solomon	May 1 Apr. 24	198 Alabama Public School & College Authority
Highway Dept.—Funds for Summer Youth Program—Highway Cleanup Local Boards of Education— Borrow Funds—School Stadium	Ray D. Bass Frank Earnest, Jr.	May 27 Apr. 3	Highway Dept. 200
County Health Depts.—Salary Supplement to Physicians Not Authorized City Funds—Private Ambulance Service Coroner—Office Space and Telephone Macon County Sheriff's Office—Payment of IRS Assessment—Unpaid Taxes Revenue Sharing Funds—Not for Education Chamber of Commerce—	Otis F. Gay Wayne Harrison David B. Carnes Fred D. Gray Leslie Gilliam Robert Malone	Apr. 21 May 30 May 23 June 12 June 10 June 9	214 223 57 117 153 233
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Subject	Addresses	Date	File
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City Contract—Retired Senior Volunteer Program	John B. Nisbet	Apr. 7	248
City-County Funds—Indigent Medical Care	Homer J. Traylor	Apr. 11	251
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Community Development Funds—City of Albertville	Olan M. Morton	June 13	254
County Contract—Private Corporation—Federal Funds	Robert T. Crowe	June 18	256
Municipal Funds—Legal Defense of Councilman	L. N. Payne, Jr.	June 24	236
County Loans—\$50,000 Limit	James A. Avary	June 30	34
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GAMING & LOTTERIES			
Gambling Devices—"Poker Cards"	Melvin Bailey	May 12	186
GOVERNOR			
Constable Vacancy—Jefferson County—Governor Appoints	Carl Jolly	June 3	225
GREENE COUNTY			
Building Purchase—Revenue Sharing	Ralph R. Banks, Jr.	Apr. 18	218
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HEALTH & HEALTH DEPARTMENTS			
County Health Dept.—Salary Supplement to Physicians Not Authorized	Otis F. Gay	Apr. 21	214

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HIGHWAY DEPARTMENT			
Transportation—Foreign Dignitaries	Ray D. Bass	Apr. 16	Highway Dept.
Highway Dept.—Funds for Summer Youth Program—Highway Cleanup	Ray D. Bass	May 27	Highway Dept.
Highway Dept. Road Camps— Governor May Transfer to Corrections	Frank Campbell	June 13	232
County Courthouse Parking Lot— Paved by State—Captive County	W. W. Weatherford	June 17	26
HISTORICAL COMMISSION			
Lease Agreement— John Tyler Morgan House	W. Warner Floyd	May 23	Historical Commission
Prepayment of Rent— Used for Restoration	W. Warner Floyd	May 28	Historical Commission
HOSPITALS			
County Hospital Board— No Rental Space for Physicians	William H. Young	May 6	243
City-County Funds—Indigent Medical Care Medical Clinics—Municipalities	Homer J. Traylor Bernice T. Clark	Apr. 11 June 25	251 266
HOUSING AUTHORITIES			
Community Development Funds— City of Albertville	Olan M. Morton	June 13	254
Community Development Program City of Montgomery	J. Arnostein, Jr.	June 13	255

Subject	Addressee	Date	File
Community Development Program— City May Comply	William H. Brigham	June 17	258
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INDUSTRIAL DEVELOPMENT BOARDS			
Industrial Development Board— Moving and Storage Warehouse	William Roy Willard	June 11	277
INSURANCE			
Medical Expenses—Reserve Deputy Sheriffs—Accident Insurance	M. W. Evans	Apr. 21	219
Flood Insurance—County Health Dept.— Building Inspection	Jeffrey Blood	May 27	265
Mental Health Center— State Fire Insurance	Gene Cashion	June 12	268
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City Ordinance— Cite Specific Intoxication Test	Alexy E. Saliba	May 14	212
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Jefferson Co. Commission— Truck Weight—Special Agents Gambling Devices—"Poker Cards" Legislation—Population Classification— Constitutionality	Melvin Bailey	Apr. 28	186
	Melvin Bailey	May 12	186
	Hugh Boles	May 9	215

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County Funds—Courtroom Recording Equipment	Maury Friedlander	Apr. 24	21
District Court Judge—Lee County— Expense Allowance	Ira H. Weissinger	June 20	276
JUVENILE COURT			
Travel Expenses—Seminars and Conven- tions—Probate Judge—Juvenile Court	Harrell Hammonds	June 17	274
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LAW ENFORCEMENT			
Jurisdiction of Recorder—Water Accounts— Public Drunkenness	Alexy E. Saliba	May 6	212
Forestry Commission—Law Enforcement Officers—Act 206, 1975 3rd Special Session	C. W. Moody	June 16	Forestry Comm.
LAW ENFORCEMENT PLANNING AGENCY			
Alabama Law Enforcement Planning Agency—Regional Planning Board Consent Form Agreement	Robert G. Davis	June 27	LEPA
LEE COUNTY			
District Court Judge—Lee County— Expense Allowance	Ira H. Weissinger	June 20	276

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Employee's Retirement System—Increased Formula Factor—Act 135, 3rd Special Session 1975 Acts	David G. Bronner	May 22	Retirement Systems
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Legislation—Population Classification—Constitutionality	Hugh Boles	May 9	215
District Court Judge—Lee County—Expense Allowance	Ira H. Weissinger	June 20	276
Salary of District Attorney—Bibb County—1970 Census	Earl Mayfield	June 18	283
Tuscaloosa County—Act 656, 1973 Acts—Presumed Valid	Richard C. Shelby	Apr. 2	354
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Lt. Governor—Presiding Officer of Senate—Executive Officer	James E. Warren	May 19	206
General Law of Local Application—City Government Changed	Russell Yarbrough	Apr. 25	246
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Tax Collector—No Embezzlement Liability	Ralph H. Havard	May 19	91

Subject	Addressee	Date	File
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Montgomery Library System—Power to Sue & Contract—Removal of Board Members	F. Gillis Doughtie	Apri. 2	222
LICENSES & PERMITS			
Act 1000, 1971 Acts—Mobile Homes	Michael S. Harvey	June 3	319
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MACON COUNTY			
Macon County Sheriff's Office—Payment of IRS Assessment—Unpaid Taxes	Fred D. Gray	June 12	117
MEDICAID			
Medicaid Providers—Information by Category—Public Records	Robert H. Holzworth	June 19	Public Health
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Medicaid Providers—Information by Category—Public Records	Robert H. Holzworth	June 19	Public Health
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Mental Health Center—State Fire Insurance	Gene Cashion	June 12	268
MOBILE, CITY OF			
Eligible Widower—Police/Fire Pension— Mobile	S. R. Sheppard	May 16	150

Subject	Addressee	Date	File
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MOBILE COUNTY			
County Commission—Travel Expenses—Promoting Commerce	James C. Wood	May 23	209
MOBILE HOMES			
Act 1000, 1971 Acts—Mobile Homes	Michael S. Harvey	June 3	319
MONTGOMERY COUNTY			
Montgomery Library System—Power to Sue and Contract—Removal of Board Members	F. Gillis Doughtie	Apr. 2	222
MORGAN COUNTY			
Sunshine Law—Travel Expenses—Morgan County Schools	Bettye Frink	Apr. 18	Auditor's Office
Morgan County Funds—"Spirit of America Festival"	Thornton Fleming	May 27	146
MORTGAGES			
Medical Clinic Board—Note Secured by Mortgage	C. H. Wampold	May 12	202
MORTGAGE TAX			
Mortgage Tax—Pike County—Moulton, Allen & Williams	Ben Reeves	June 3	290
MOTOR VEHICLES			
City Ordinance—Cite Specific Intoxication Test	Alexy E. Saliba	May 14	212

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City Councilman—Employee of Corporation—Sales to City	Robert S. Milner	Apr. 4	205
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Retired City Employee—Return to Work—Ineligible for Benefits	Wade H. Baxley	May 27	109
City Funds—Private Ambulance Service	Wayne Harrison	May 30	223
Revenue Sharing Funds—Not for Education	Leslie Gilliam	June 10	153
Water-Sewer Board/Supt. of Utilities—Mayor Cannot Be Both	L. N. Payne, Jr.	May 29	236
Mayor's Salary—Six Months Prior to Election	Ellon Voils Young	June 11	238
Self Service Gas Station—City Cannot Prohibit	H. G. Jordan	June 12	67
Temporary City Workers—Competitive Bid	Nelson Arnold	Apr. 29	241
City Employee—Cannot Contract With City	Fred G. Collins	May 8	244
Temporary Mayor's Office—Telephone Service	Frank Roberts	Apr. 29	111
General Law of Local Application—City Government Changed	Russell Yarbrough	Apr. 25	246
City Contract—Retired Senior Volunteer Program	John B. Nisbet	Apr. 7	248

Subject	Addressee	Date	File
City Compensation of Disabled Employee— Workman's Compensation Act	S. R. Sheppard	Apr. 11	150
City Council—Dismissal of City Recorder	Fred W. Purdy	May 27	253
Community Development Program—City of Montgomery	J. Aronstein, Jr.	June 13	255
Community Development Funds—City of Albertville	Olan M. Morton	June 13	254
County Contract—Private Corporation— Federal Funds	Robert T. Crowe	June 18	256
Community Development Program—City May Comply	William H. Brigham	June 17	258
Medical Clinics—Municipalities	Bernice T. Clark	June 25	266
Municipal Funds—Legal Defense of Council- man	L. N. Payne, Jr.	June 24	236
Industrial Development Board—Moving and Storage Warehouse	William Roy Willard, Jr.	June 11	277
Zoning Amendment—Mayor May Veto	Alford W. Turner	May 21	284
City Council Member—Spouse Police Officer	Barry N. McCrary	June 30	299
City of Fairfield—Emergency Contract— Annual Audit	Carl H. Kilgore	May 12	263
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NURSING BOARD			
Nursing Board—Registration of Nurse Anesthetists	Betty Tomlin	Apr. 3	Nursing Board
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Dual Officeholding— City Recorder/Civil	Gary S. Roberts	Apr. 11	131

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Sale of City Autos—Council Must Order	John Starnes	Apr. 3	190
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Lt. Governor—Presiding Officer of Senate—Executive Officer	James E. Warren	May 19	206
3-Member Commission—Votes and Motions	Marshall Prickett	May 6	204
City Councilman—Employee of Corporation—Sales to City	Robert S. Milner	Apr. 4	205
Coroner—Office Space and Telephone	David B. Carnes	May 23	57
Water-Sewer Board/Supt. of Utilities—Mayor Cannot Be Both	L. N. Payne, Jr.	May 29	236
Mayor's Salary—Six Months Prior to Election	Ellon Voils Young	June 11	238
City Council—Dismissal of City Recorder	Fred W. Purdy	May 27	253
City Council Member—Spouse Police Officer	Barry N. McCrary	June 30	299
County Solicitors—State Officials—Ethics Act	Melvin G. Cooper	June 11	Ethics Comm.
ORDINANCES			
Self Service Gas Station—City Cannot Prohibit	H. G. Jordan	June 12	67
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